

REMARKS

Request for Reconsideration

Applicant has carefully considered the matters raised by the Examiner in the outstanding Office Action but remains of the opinion that patentable subject matter is present. Applicant respectfully requests reconsideration of the Examiner's position based on the above amendments to the Specification, Amendments to the Claims, the attached Declaration of Mr. Goto and the following remarks.

Confirmation of Election

As noted by the Examiner in the Office Action, a Restriction had been put forward between Claims 1-25 and Claims 26-37. Applicant had elected Group II, Claims 26-37. Applicant hereby confirms the Election to Group II, Claims 26-37. This Election is made without traverse.

Claims Status

As noted above, Claims 1-25 are withdrawn while Claims 26-37 remain under prosecution.

This Response amends Claim 26 by adding the limitations of Claim 27 thereto and, thus, cancels Claim 27. Currently under prosecution are Claims 26 and 28-37.

One of the unique aspects of the present Invention is the combination of the cyan leuco dye with a reducing agent of formula 1 and a yellow coloring leuco dye of formula YA. Applicant has discovered that the combination of these three in the photothermographic imaging material leads to improved properties and, especially, in image density, silver colored tone and image storage stability from light irradiation.

In order to emphasize the novel aspects of the present Invention, Claim 26 has been amended herein to add the protections of Claim 27, thereby, further defining the specific type of reducing agent which is employed in the present Invention. It is respectfully submitted that the specific combination of a cyan leuco dye with a yellow coloring leuco dye of formula YA in combination with a reducing agent of formula 1 is neither taught nor suggested in the references cited by the Examiner and, as such, the present Invention is patentable over the cited references taken alone or in combination.

Claims 26-37 had been rejected as being unpatentable over a combination of Biavasco, Fukui and Cerquone. It was the Examiner's position that Biavasco teaches a photothermographic material substantially as claimed but was missing a reducing agent and the yellow coloring leuco dye of formula YA. The Examiner has pointed to Fukui as teaching both a reducing agent and, specifically, a reducing agent of formula 1 as well as a yellow coloring leuco dye of compound YA. The Examiner had pointed to Cerquone to teach that it is known to use reducing agents in color photothermographic material to produce a desired dye. Applicant respectfully traverses this rejection.

First, even if it is known to use reducing agents with color photothermographic material to produce a desired dye, there is no teaching or suggestion that a specific combination of reducing agent of formula 1, in combination with a yellow coloring leuco dye of compound YA if combined with a cyan leuco dye, will produce improved results. Thus, although it may be obvious to try to combine various reducing agents with cyan leuco dyes, it is respectfully submitted that none of the references taken alone or in combination teach or suggest that the specific combination of a

cyan leuco dye with the yellow coloring leuco dye of formula YA and a reducing agent of formula 1 will result in an improved photothermographic image material.

In order to demonstrate the unique characteristics of the present Invention, Applicant has tested the material of the prior art and compared it to the material of the present Invention. These tests were outlined in the attached Declaration of Mr. Goto.

Specifically, Mr. Goto made the photothermographic material as taught in Fukui which contained both a yellow coloring leuco dye of formula YA and a reducing agent of formula 1. Specifically, Mr. Goto ran Sample Nos. 1 and 3 of Example 1 and Sample Nos. 1, 3 and 5 of Example 2 of Fukui. He then ran a second series where he took each one of Mr. Fukui's materials and added a cyan leuco dye as taught in Biavasco. Specifically, he used Biavasco's cyan leuco dye of compound 2.

As can be seen in the Tables attached to Mr. Goto's Declaration, the samples made in accordance with the present Invention, a combination of the cyan leuco dye, the reducing agent of formula 1 and yellow coloring leuco dye of formula YA, produced superior results to the material which contained just the reducing agent of formula 1 and the yellow coloring leuco dye of formula

YA.

Respectfully, the present Invention is patentable over the three cited references. The three cited references do not teach nor suggest the specific combination of a cyan leuco dye with a yellow coloring leuco dye of formula YA and a reducing agent of formula 1.

Rejection Under 102

Claims 26-37 had been rejected as being anticipated by Kashiwagi '074 or Kashiwagi '569. The Examiner noted that both of these published applications have a U.S. filing date which is after the priority dates of the instant Application.

Thus, Applicant submits an English Translation of Priority Document Japanese Patent Application No.2003-089350. The Examiner's attention is directed to pages 4-8 and Claims 3-14 thereon which support Claims 26-27 as currently under prosecution. Respectfully, Applicant submits that the two Kashiwagi references are no longer prior art.

Double Patenting Rejection

Two double patenting rejections were made to Claims 26-37. Specifically, one was made with respect to copending U.S. Application 10/718,295 while the other was made with respect to

copending U.S. Application 10/727,313.

In order to remove this rejection, Applicant hereby submits Terminal Disclaimers to both these Applications.

Claim Objections

Claim 28 had been objected to for informality of ". The". Claim 28 has been amended herein to correct this obvious typographical error. The same type of typographical error was noted in Claim 33 and, thus, Claim 33 has also been amended herein.

Specification Amendments

The Examiner requested that Applicant review the Specification to correct minor errors. The Specification has been reviewed and minor errors have been corrected herein. All the errors are deemed to be typographical in nature and, therefore, are self explanatory.

Conclusion


In view of the foregoing and the enclosed, it is respectfully submitted that the Application is in condition for allowance and such action is respectfully requested.

PTO Form 2038 is enclosed herewith authorizing payment of the appropriate fee for the filing of the Terminal Disclaimers. Should any further fees or extensions of time be necessary in order to maintain this Application in pending condition, appropriate requests are hereby made and authorization is given to debit Account # 02-2275.

Respectfully submitted,

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Encl: Unexecuted Declaration of Mr. Narito Goto
Two executed Terminal Disclaimers
Executed PTO Form 2038
Return receipt postcard